

# **EXHIBIT DD**

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

HITUL GANDHI, Individually, )  
and on behalf of a class )  
of others similarly situated, )  
                                  )  
                                  )  
Plaintiff, )  
v. ) Case No.  
                                  )  
DELL INC., )  
and )  
DELL MARKETING USA L.P., )  
                                  )  
Defendants. )  
                                  )  
\_\_\_\_\_)

DEPOSITION OF:

DAVID HALEY

Taken on Behalf of the Defendants

November 3, 2008

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VOWELL & JENNINGS, INC.  
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1 half but that it would be at, quote, half time for 2 overtime? 3 <b>A. No, I wasn't told that.</b> 4 Q. Never told that? 5 <b>A. The overtime policies were not made</b> 6 <b>clear and were not understood, also, by the</b> 7 <b>managers I worked for. I'm sorry.</b> 8 Q. Okay. 9 <b>A. I wish I could be of more help.</b> 10 Q. And if it is .5 overtime rate times the 11 regular rate of pay, you could follow that 12 computation of 23.93, correct? 13 <b>A. I'm going to assume that it is correct.</b> 14 <b>I don't know.</b> 15 Q. Well, I mean, assuming the math is 16 correct, you understand the calculation formula? 17 <b>A. No, actually I don't.</b> 18 Q. Okay. 19 <b>A. So are you -- well, go ahead. Say it</b> 20 <b>again.</b> 21 Q. You understand where five overtime 22 hours come from, correct? 23 <b>A. More than 40.</b> 24 Q. Right. But, I mean, on this example -- 25 <b>A. I do understand five overtime hours</b>	1 see that? 2 <b>A. Then I think this is incorrect.</b> 3 Q. And why is that? 4 <b>A. Because total targeted compensation, in</b> 5 <b>my understanding, included incentive pay, which</b> 6 <b>was commission as well as base.</b> 7 Q. Okay. 8 <b>A. So --</b> 9 Q. So you think that would be -- how would 10 this be wrong? 11 <b>A. Because you're using regular rate of</b> 12 <b>pay, and I don't understand what regular -- total</b> 13 <b>targeted -- total targeted compensation was not a</b> 14 <b>regular rate of pay. I, you know, earned beyond</b> 15 <b>total targeted compensation.</b> 16 Q. Okay. 17 <b>A. So my regular rate of pay was</b> 18 <b>irregular.</b> 19 Q. Okay. So you understood that? 20 <b>A. I understood what?</b> 21 Q. What you just told me, that your -- 22 that your total rate -- that your regular rate of 23 pay was irregular. 24 <b>A. Can you define regular rate of pay for</b> 25 <b>me? I think that's where the problem is. What is</b>	
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1 <b>would be for more than 40.</b> 2 Q. Right. Well, in this particular 3 example, it would be because you worked 40 -- they 4 were assuming you worked total hours, 45, would 5 give you the five hours of overtime. 6 <b>A. Okay.</b> 7 Q. And then if you assume for a moment 8 that the way the pay system scheme worked at Dell 9 was that you were paid for overtime at a .5 rate 10 of your regular rate of pay -- I mean, if you just 11 accept that -- you can see where that .5 comes 12 from, correct? 13 <b>A. Can you describe for me what a regular</b> 14 <b>rate of pay is?</b> 15 Q. Yes. And it is when you divide the 16 weekly base salary by the total hours worked 17 equals your regular rate of pay. Do you see that 18 right above? 19 <b>A. Divide the weekly base salary?</b> 20 Q. Right. 21 <b>A. So base salary is not total targeted</b> 22 <b>compensation?</b> 23 Q. Base salary, as defined up here, would 24 be your total targeted compensation divided by the 25 number of pay periods to give you 860.77. Do you	1 <b>regular rate of pay?</b> 2 Q. Well, you used -- 3 <b>A. Is it base salary? Is it targeted</b> 4 <b>salary?</b> 5 Q. I mean, you just gave me an explanation 6 a moment ago. You said, my regular rate of pay 7 was irregular. What did you mean by regular rate 8 of pay? 9 <b>A. I meant my pay, including all forms of</b> 10 <b>SPIFs, bonuses, commissions and overtime.</b> 11 Q. Varied? Varied? 12 <b>A. I'll say that my rate of pay, which</b> 13 <b>includes bonuses, SPIFs, overtime and commissions,</b> 14 <b>varied. It wasn't always the same.</b> 15 Q. Right. Did you ever -- looking at Page 16 1795, did anyone ever -- did you ever see anything 17 that looked in any format similar to this sort of 18 calculation? 19 <b>A. I didn't.</b> 20 Q. When you went -- 21 <b>A. Let's say I don't remember --</b> 22 Q. Okay. 23 <b>A. -- seeing it, and so it's new to me.</b> 24 <b>And I apologize. It's the reason why I'm lost.</b> 25 Q. And when you went to the ombudsman, did	

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